

By: Puente

H.B. No. 645

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the creation or enforcement of certain restrictive covenants that undermine water conservation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.007 to read as follows:

Sec. 202.007. CERTAIN RESTRICTIVE COVENANTS PROHIBITED.

(a) A property owners' association may not include or enforce a provision in a dedicatory instrument that:

(1) prohibits or restricts a property owner from:

(A) implementing measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush, or leaving grass clippings uncollected on grass;

(B) installing rain barrels or a rainwater harvesting system;

(C) implementing efficient irrigation systems, including underground drip or other drip systems; or

(D) installing appurtenances, including patios, decks, walkways, or sidewalks; or

(2) requires a property owner to:

(A) install or use an automatic underground irrigation system; or

(B) install minimum amounts of turf grass.

(b) A provision that violates Subsection (a) is void.

1 (c) A property owners' association may restrict the type of
2 turf used by a property owner in the planting of new turf to
3 encourage or require water-conserving turf.

4 (d) This section does not:

5 (1) restrict a property owners' association from
6 regulating the requirements, including size, type, shielding, and
7 materials, for or the location of a composting device, rain barrel,
8 rain harvesting device, or any other appurtenance if the
9 restriction does not prohibit the economic installation of the
10 device or appurtenance on the property owner's property where there
11 is reasonably sufficient area to install the device or
12 appurtenance;

13 (2) require a property owners' association to permit a
14 device or appurtenance described by Subdivision (1) to be installed
15 in or on property:

16 (A) owned by the property owners' association;

17 (B) owned in common by the members of the
18 property owners' association; or

19 (C) in an area other than the fenced yard or patio
20 of a property owner;

21 (3) prohibit a property owners' association from
22 regulating the installation of efficient irrigation systems,
23 including establishing visibility limitations for aesthetic
24 purposes;

25 (4) prohibit a property owners' association from
26 regulating the installation or use of gravel, rocks, or cacti; or

27 (5) restrict a property owners' association from

1 regulating yard and landscape maintenance if the restrictions or
2 requirements do not restrict or prohibit turf or landscaping design
3 that promotes water conservation.

4 (e) This section does not apply to a property owners'
5 association that:

6 (1) is located in a municipality with a population of
7 more than 175,000 that is located in a county in which another
8 municipality with a population of more than one million is
9 predominantly located; and

10 (2) manages or regulates a development in which at
11 least 10,000 acres of the property is subject to a covenant,
12 condition, or restriction designating the property for commercial
13 use, multifamily dwellings, or open space.

14 SECTION 2. (a) This Act takes effect September 1, 2003.

15 (b) The change in law made by this Act applies to a provision
16 in a dedicatory instrument as that term is defined by Section
17 202.001(1), Property Code, recorded on or after the effective date
18 of this Act.